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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,606	01/08/2007	Julian Mark Watson	JAMES118.001APC	5402
20995 7590 10/21/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER BAKER, DAVID S				
ART UNIT 2884		PAPER NUMBER		
NOTIFICATION DATE 10/21/2008		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

### Office Action Summary

**Application No.**

10/577,606

**Applicant(s)**

WATSON, JULIAN MARK

**Examiner**

DAVID S. BAKER

**Art Unit**

2884

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-12 is/are allowed.  
6) ☒ Claim(s) 13 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 27 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed 27 June 2008 has been accepted and entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dimond (WO 2001/005519 A1).

Regarding claim 13, Dimond discloses a photoluminescence pigment application apparatus comprising: a first hopper adapted to contain a first powdered component (F:1-3; P:3 L:3-11); the first hopper being adapted to allow continuous transfer of the powdered component from the first hopper through a first die (F:1-3; P:4 L:11-17) to the first at least one recess by operation of gravity(F:1-3; P:8 L:20-24); a transport device for holding the substrate below the hopper in sliding engagement with the first die to permit a continuous delivery of the first powdered components into the recesses (F:1-3; P:9 L:21-24); an oven adapted to receive a portion of the substrate (F:1-3; P:5 L:21-23), the oven providing sufficient heat to turn the components into a molten mixture (F:1-3; P:4 L:19-20); and wherein a trailing edge of the die governs the depth of the powdered component dispensed into the recesses (C:4 L:56-65). Dimond does not disclose expressly a second hopper performing an identical task as the first hopper with a second

powdered component or that the trailing edge is shaped to provide mounds of powdered component extending above the uppermost edge of the recesses. However, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to provide a second hopper acting similarly as the first hopper. The motivation for adding a second hopper with a second powdered component would be to decrease the filling time for substrates with multiple recesses since it has been held that. Absent some new or unexpected result, the duplication of a part requires only routine skill in the art. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Additionally, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to provide mounds of the powdered components that extend above the uppermost edge of the recesses. The motivation for doing so would have been to prevent underfilling of the recesses since it is well known in the art that the leveling off of a conveyed powdered component may occur later in the conveyance of the material.

***Allowable Subject Matter***

4. Claims 1-12 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, the prior art of record does not disclose or reasonably suggest, along with the other claimed limitations, a method of manufacturing a slip-resistant photo-luminescent device comprising: namely the combination of, preparing a first powdered component of resin and friction-enhancing material; preparing a second powdered component of resin and a photo-luminescent pigment; and fusing the resins to bond them to the surface of a substrate within separate recesses.

Regarding claims 2-12, the balance of claims is found to contain allowable subject matter due to their dependence upon a claim that already contains allowable subject matter.

***Response to Arguments***

6. Applicant's arguments filed 27 June 2008 have been fully considered but they are not persuasive.

Regarding the applicant's arguments pertaining to the rejection of claim 13, the examiner respectfully disagrees. Dimond discloses mating the die of the hopper to the surface of the conveyance means in order to provide a surface of powdered component that is flush with the top edges of the recesses in order to provide a consistent and uniform filling of the recesses and so that the powdered component, when melted, does not extend above the top of the recesses. To provide a die that mounds the powdered component and then later levels it to avoid underfilling of the recesses would not be above the level of ordinary skill in the art to alter Dimond method to incorporate this improvement. Haerberli (US 5,363,887 A) discloses the leveling of a powdered component after it has been deposited on a conveyance from a hopper. A common reason for this setup is that precise deposition at die beneath the hopper is difficult due to mechanical vibrations caused by shakers or the like that are used to remove air pocket from the hopper. The vibrations can result in nonuniform deposition below the hopper. By providing a die or leveler beyond the hopper, these variations due to the movement of the hopper can be eliminated.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5,363,887 A – Haeberli discloses a leveling device for a conveyed powdered material.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID S. BAKER whose telephone number is (571)272-6003. The examiner can normally be reached on MTWRF 10:30am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David S Baker/  
Examiner, Art Unit 2884  
/David P. Porta/  
Supervisory Patent Examiner, Art Unit 2884